

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

v.

ROBERT MENENDEZ, *et al.*,

Defendants.

Criminal Action No. 23-490 (SHS)

Document electronically filed

**CERTIFICATION OF
LAWRENCE S. LUSTBERG IN SUPPORT
OF MR. HANA'S POST-TRIAL
MOTIONS**

I, LAWRENCE S. LUSTBERG, hereby certify as follows:

1. I am an attorney-at-law, admitted to the bars of the States of New York and New Jersey and admitted to practice in the United States District Court for the Southern District of New York, among other Courts. I am also a Director with Gibbons P.C., counsel for Defendant Wael Hana in the above-captioned matter.

2. I submit this Certification based upon my personal knowledge and review of the attached relevant documents in support of Mr. Hana's Post-Trial Motions pursuant to Federal Rules 29 and 33.

3. Attached hereto as Exhibit A is a true and correct copy of the Government's April 19, 2024 Witness List.

4. Attached hereto as Exhibit B is a true and correct copy of the Government's notes from its April 16, 2024 interview of Nader Moussa (3529-087).

5. Attached hereto as Exhibit C is a true and correct copy of the FBI 302 from the Government's June 14, 2023 interview of Gazmend Lita (NTW_000002190-000002196).

6. Attached hereto as Exhibit D is a true and correct copy of an email sent by Assistant U.S. Attorney Daniel Richenthal to the Joint Defense on April 7, 2024.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: August 19, 2024
Newark, New Jersey

By: s/ Lawrence S. Lustberg
Lawrence S. Lustberg
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
(973) 596-4500
llustberg@gibbonslaw.com

Attorneys for Defendant Wael Hana

Exhibit A



U.S. Department of Justice

United States Attorney
Southern District of New York

Jacob K. Javits Federal Building
26 Federal Plaza, 37th Floor
New York, New York 10278

April 19, 2024

Adam Fee, Esq. (adamfee@paulhastings.com)
Avi Weitzman, Esq. (aviweitzman@paulhastings.com)
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Cesar de Castro, Esq. (cdecastro@cdecastrolaw.com)
Valerie Gotlib, Esq. (vgotlib@cdecastrolaw.com)
Seth Agata, Esq. (sagata@cdecastrolaw.com)

**Re: United States v. Robert Menendez, et al.,
S4 23 Cr. 490 (SHS)**

Dear Counsel:

The Government writes, pursuant to the Court's order at the March 11, 2014 conference, as modified by its order today, to identify potential exhibits it may introduce, and witnesses it may call, in its case-in-chief. Enclosed is an index of exhibits the Government may introduce in its case-in-chief at trial. The exhibits are being provided to you today by USAfx.

Please note that this letter and the enclosed index are designated as "Attorney's Possession Only" under the October 6, 2023 Protective Order in this case.

The Government may call the following individuals as witnesses in its case-in-chief at trial:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. Nick D'Alessio
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]

14. [REDACTED]
15. [REDACTED]
16. [REDACTED]

17. Bienvenido Hernandez

18. [REDACTED]
19. [REDACTED]
20. [REDACTED]
21. [REDACTED]
22. [REDACTED]
23. [REDACTED]
24. [REDACTED]
25. [REDACTED]
26. [REDACTED]
27. [REDACTED]

28. Nader Moussa

29. Elvis Parra

30. [REDACTED]
31. [REDACTED]
32. [REDACTED]
33. [REDACTED]
34. [REDACTED]
35. [REDACTED]
36. [REDACTED]

37. Dana Stroul (formerly of the U.S. Senate and U.S. Department of Defense)

38. [REDACTED]
39. [REDACTED]
40. [REDACTED]
41. [REDACTED]
42. [REDACTED]
43. [REDACTED]
44. [REDACTED]
45. [REDACTED]
46. [REDACTED]
47. [REDACTED]

48. One or more additional summary witnesses

49. Document/records custodians as necessary, pending stipulations between the parties

The Government notes that this exhibit production includes some translations of certain exhibits. The Government intends to produce additional translations of Government Exhibits on a rolling basis.

The Government also notes that, as the Government previously advised, it intends to produce summary charts of certain of the materials in these exhibits. The Government has

previously proposed that both sides exchange summary charts at least two days before seeking to introduce such charts at trial so that the parties can review the charts prior to trial, consistent with Rule 1006 and the practice in this district. The Government is amenable to discussing a different mutual schedule for such exchange as well as other trial-related exchanges.

The Government may mark portions of these exhibits as sub-exhibits, and may identify additional potential exhibits it may offer or witnesses it may call as it continues its preparation for trial, and the Government may decide not to offer certain exhibits or not to call certain witnesses as it continues its preparation for trial and based on, among other things, court rulings, stipulations between the parties, and statements, arguments, and questions by the defendants at and prior to trial.

Very truly yours,

DAMIAN WILLIAMS
United States Attorney

By: s/_____
Eli J. Mark
Paul M. Monteleoni
Lara Pomerantz
Daniel C. Richenthal
Catherine E. Ghosh
Assistant United States Attorneys
(212) 637-2431/2219/2343/2109/1114

Enclosures

cc: (by email)

Valeriano Trinidad

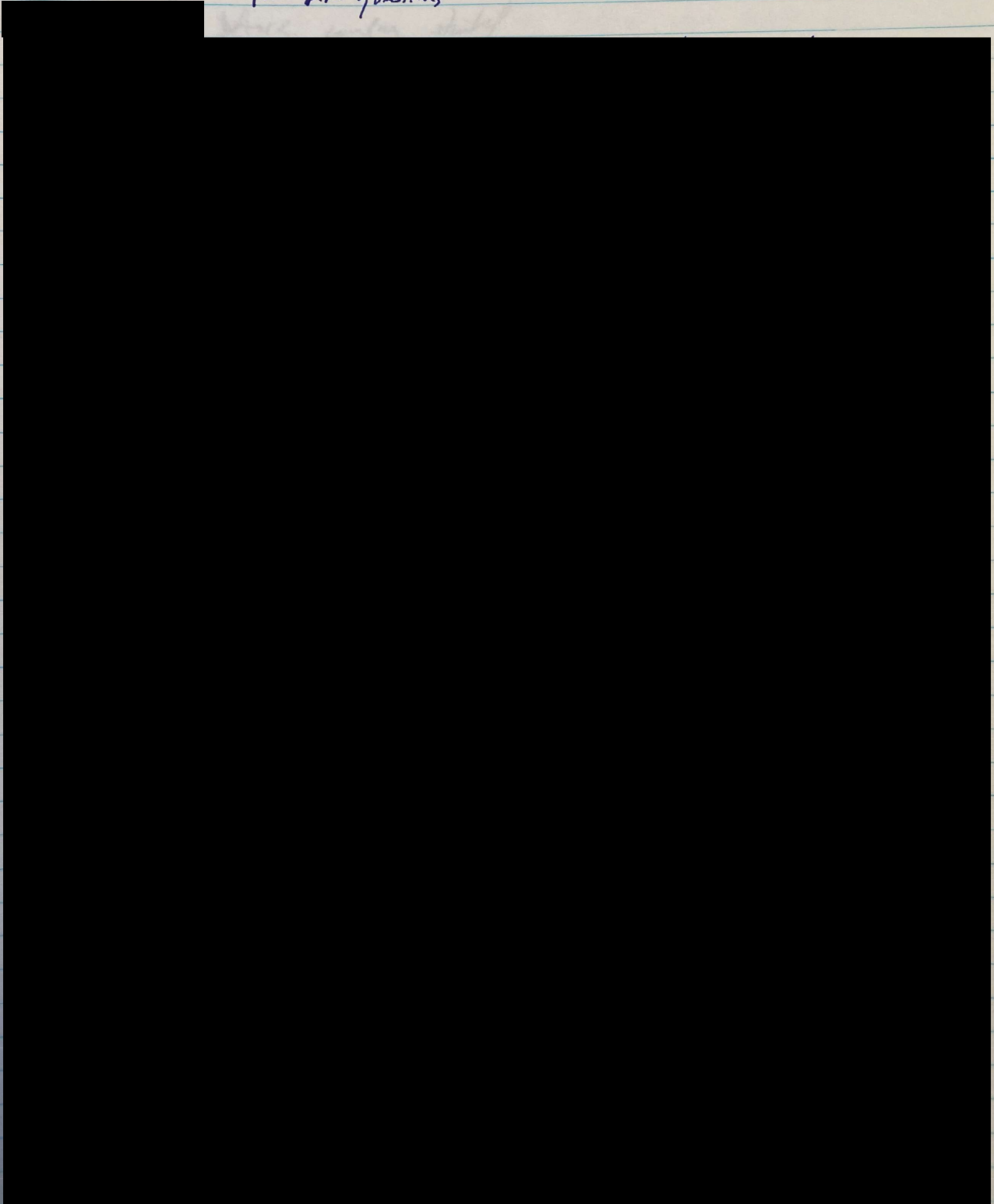
Exhibit B

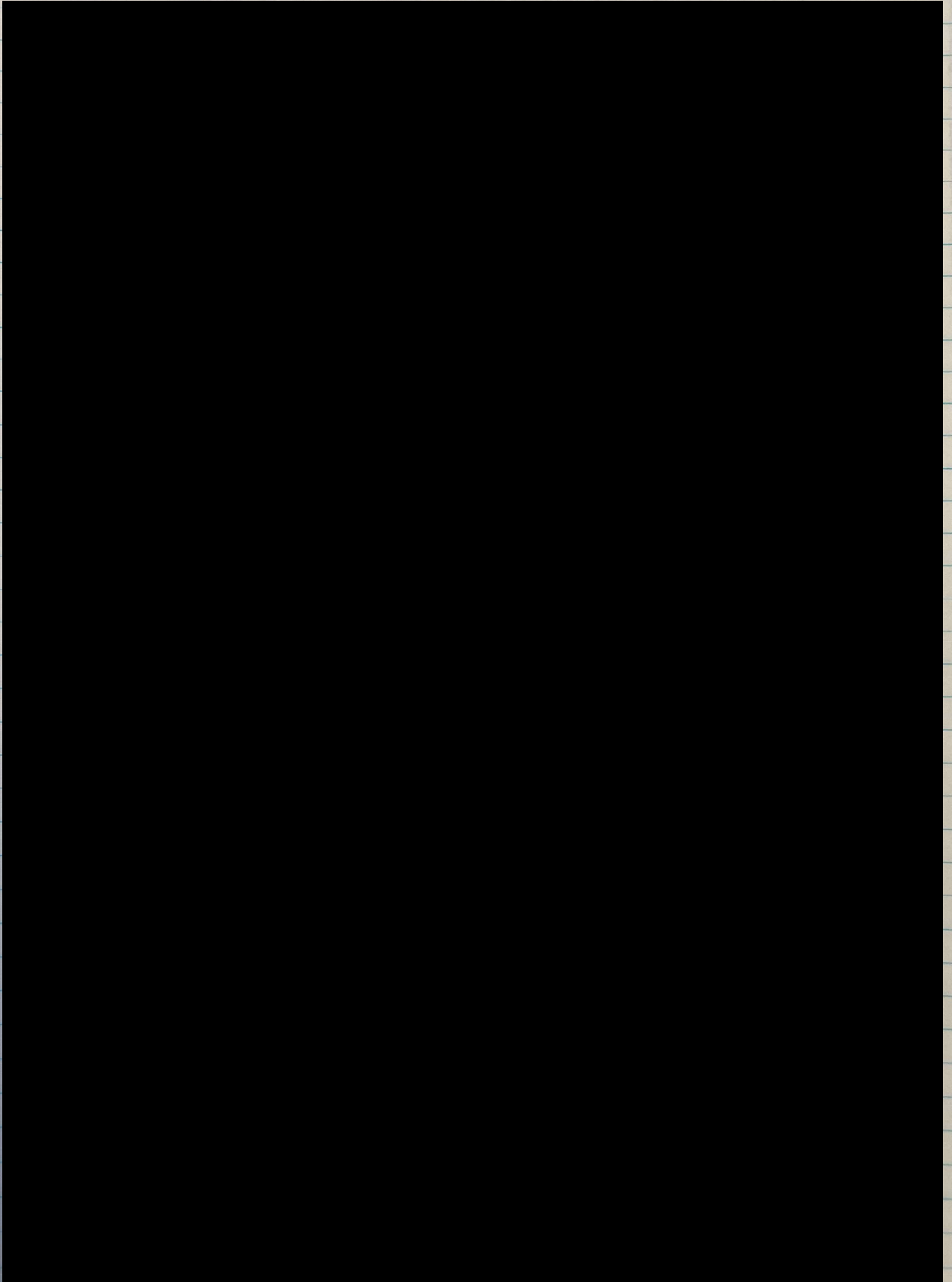
Moussa

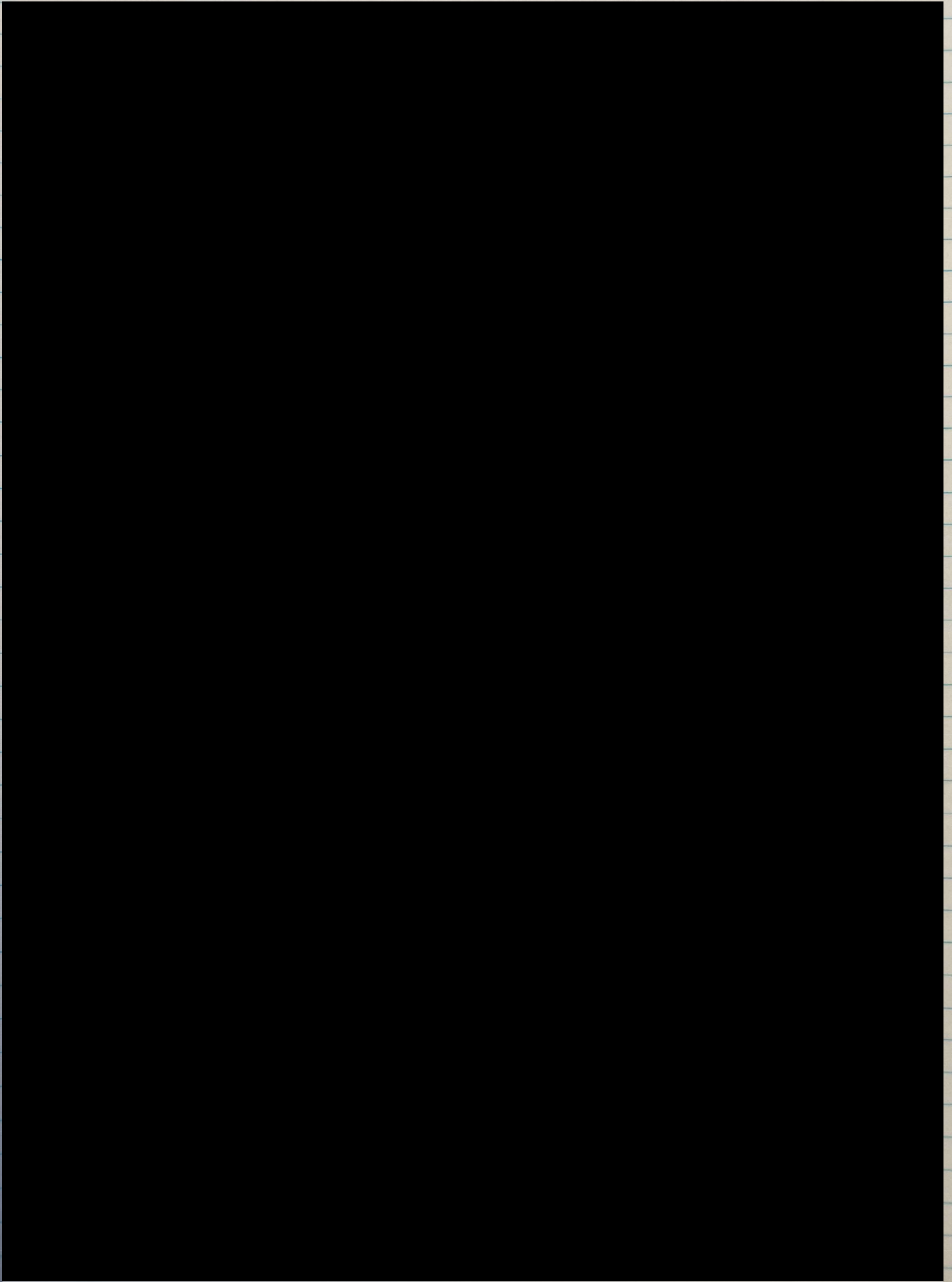
4/16

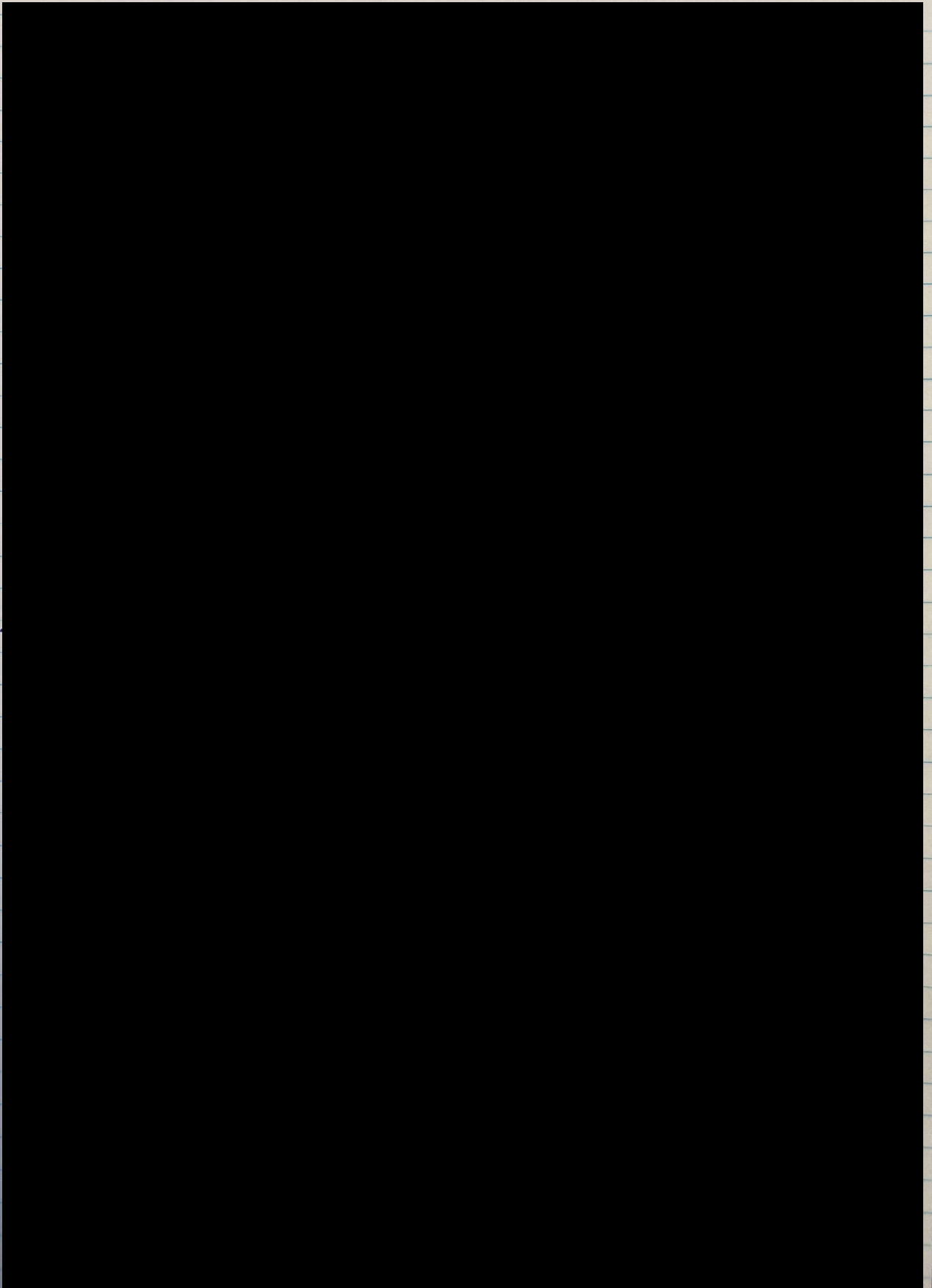
NA TM, ON

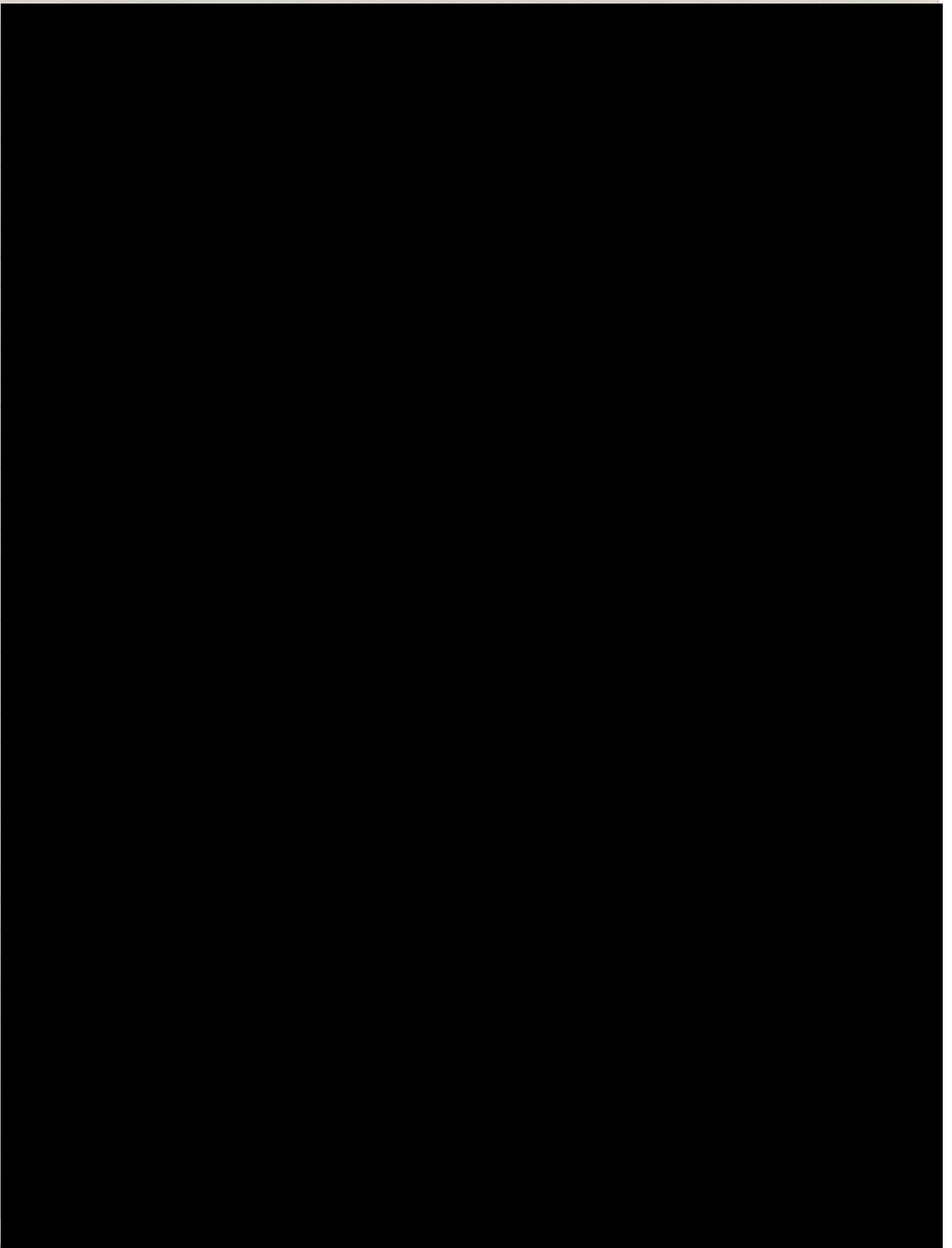
→ did in to km, who said can go forward, but is available
for the questions

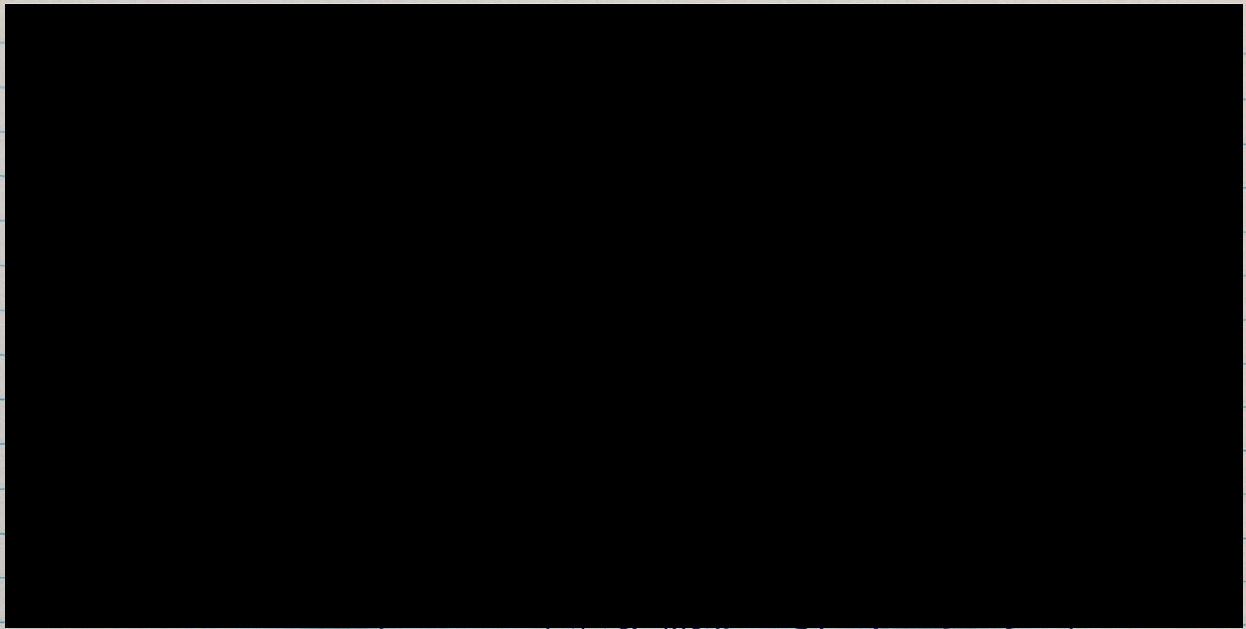












No one gave any envelopes ^{into} to give to Am/UM

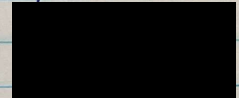


Exhibit C

FEDERAL BUREAU OF INVESTIGATION

Date of entry 07/20/2023

GAZMEND "GUS" LITA (LITA), date of birth (DOB) [REDACTED], was interviewed at the United States Attorney's Office for the Southern District of New York (SDNY) located at One Saint Andrews Plaza, New York, NY. LITA was interviewed by Assistant United States Attorneys (AUSA) Eli Mark and Paul Monteleoni, Federal Bureau of Investigation (FBI) Special Agents Nicholas Iorio and Jennifer Breitenbach, and Staff Operations Specialist Shushan Galstyan. Also present for the interview were LITA's attorneys, Matt Beck and Ashley Davidow. After being advised of the identities of the interviewers and the nature of the interview, LITA provided the following information:

[REDACTED]

[REDACTED]

[REDACTED]

Investigation on 06/14/2023 at New York, New York, United States (In Person)File # [REDACTED] Date drafted 06/19/2023by IORIO NICHOLAS DAVID, Jennifer Breitenbach

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

NTW_000002190

[REDACTED]

Continuation of FD-302 of (U) Interview of GAZMEND "GUS" LITA, On 06/14/2023, Page 2 of 7

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Continuation of FD-302 of (U) Interview of GAZMEND "GUS" LITA , On 06/14/2023 , Page 3 of 7

NTW_000002192

[REDACTED]

Continuation of FD-302 of (U) Interview of GAZMEND "GUS" LITA, On 06/14/2023, Page 4 of 7

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Continuation of FD-302 of (U) Interview of GAZMEND "GUS" LITA, On 06/14/2023, Page 5 of 7

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Continuation of FD-302 of (U) Interview of GAZMEND "GUS" LITA, On 06/14/2023, Page 6 of 7

[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

Continuation of FD-302 of (U) Interview of GAZMEND "GUS" LITA, On 06/14/2023, Page 7 of 7

[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] LITA never delivered an envelope of cash to MENENDEZ or ARSLANIAN, nor was LITA ever asked to do so. [REDACTED]
[REDACTED]

Exhibit D

From: Richenthal, Daniel (USANYS) <Daniel.Richenthal@usdoj.gov>

Sent: Sunday, April 7, 2024 5:04 PM

To: Weitzman, Avi <aviweitzman@paulhastings.com>

Cc: PH-MenendezTeam <PH-MenendezTeam@paulhastings.com>; dschertler@schertlerlaw.com; donorato@schertlerlaw.com; Paola Pinto <ppinto@schertlerlaw.com>; Grace McMahon <gmcMahon@schertlerlaw.com>; Lustberg, Lawrence S <LLustberg@gibbonslaw.com>; Collart, Anne M. <ACollart@gibbonslaw.com>; Solano Jr., Ricardo <RSolano@gibbonslaw.com>; LaBruno, Christina M. <CLaBruno@gibbonslaw.com>; Cesar de Castro <cdecastro@cdecastrolaw.com>; Seth Agata <sagata@cdecastrolaw.com> <sagata@cdecastrolaw.com>; vgotlib@cdecastrolaw.com; Shannon McManus <smcmanus@cdecastrolaw.com> <smcmanus@cdecastrolaw.com>; Pomerantz, Lara (USANYS) <Lara.Pomerantz@usdoj.gov>; Ghosh, Catherine (USANYS) <Catherine.Ghosh@usdoj.gov>; Monteleoni, Paul (USANYS) <Paul.Monteleoni@usdoj.gov>; Fee, Adam J. <adamfee@paulhastings.com>; Clark, Christina (NSD) <Christina.Clark3@usdoj.gov>; Mark, Eli (USANYS) <Eli.Mark@usdoj.gov>

Subject: RE: [EXTERNAL] Re: United States v. Menendez, et al., S4 23 Cr. 490 (SHS) -- notice of foreign agent conduct

External Email: Use caution with links and attachments.

Avi,

We disagree with respect to the Court's order and our disclosure. The order requires the Government to "disclose to Senator Menendez *the particular conduct* the government contends that Senator Menendez *undertook* as an agent of Egypt and Egyptian officials, i.e., the conduct underlying the indictment's 18 U.S.C. § 219 allegations" (order (emphases added)). We have done so. Which specific foreign principal(s) the defendant was an agent of when he undertook such conduct is a separate matter (and the identity of such foreign principals is also not required to be proven with respect to foreign principals outside of the United States, *see* 22 U.S.C. § 618(b)). In any event, the defendant (and co-defendants) were provided months ago with the names of all Egyptian officials in the superseding indictment, so it is apparent which such officials are connected to which allegations in the superseding indictment—and now also apparent, based on our disclosure, which of those allegations we presently intend to prove in our case-in-chief were part of such agency. To the extent that you may be asking for the legal arguments that we intend to make regarding agency, or the evidence we intend to offer in support of the allegations, that is beyond the scope of the Court's order.

Separate from the foregoing, with respect to the law, which is also beyond the scope of the Court's order, as a courtesy, we note that, contrary to what your email appears to state, there is no requirement that the foreign principal(s) "direct[]" the defendant, *see* 22 U.S.C. § 611(c)(1). We further note, also a courtesy, in response to your inquiry regarding Wael Hana and IS EG Halal, that because FARA provides that a foreign principal does not include "an individual [who is] a citizen of and domiciled within the United States" or an entity "organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States," *id.* § 611(b)(2), we do not presently intend to argue that Hana, any other co-defendant, or IS EG Halal is a foreign principal (although of course that does not mean that they could not be intermediaries, *see id.* § 611(c)(1)). As you know, the Court has previously suggested, and we have agreed, that the parties confer regarding proposed jury instructions, and we have proposed that

the parties trade draft instructions later this coming week. We would be happy to confer regarding the law on these or other points, if worthwhile, at that time.

Dan

Daniel C. Richenthal
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Assistant United States Attorney
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